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{ REPORT
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NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2004

R E P O R T

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ON

H.R. 1588

together with

ADDITIONAL, DISSENTING, AND
SUPPLEMENTAL VIEWS

[Including cost estimate of the Congressional Budget Office]



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ADDITIONAL VIEWS

As members of the Armed Services Committee we clearly understand the importance of a strong national defense. Our record of support is unambiguous. Realistic and rigorous training underpins the capabilities of our military services, forms one of the most important components of readiness, and provides for our repeated successes.

We have an obligation to protect this training. We also have an obligation to protect the natural environment—air, water, and land—upon which all life depends. The protection of our environment has profound consequences on our economic well being and our quality of life.

No one can dispute the importance of military readiness and protecting the environment. However, the current law effectively balances the two. If a case were made that current law was not balanced we would certainly be sympathetic to adjusting the law. Nothing points to an imbalance.

We have heard much rhetoric on the issue, but the truth is the Department of Defense's evidence is fundamentally anecdotal. Moreover, that anecdotal evidence stands in sharp contrast to the successes in Iraq. Should training have been adversely impacted, we would have expected to see evidence of that impact in combat operations. None exists.

We looked for analysis to inform the debate. While metrics exist to measure readiness, no one has presented any measure of reduced readiness resulting from the Department's compliance with existing law. In fact, in an April 2003 Report, the General Accounting Office noted "Despite concerns voiced repeatedly by DOD officials about the effects of encroachment on training, DOD's readiness reports did not indicate the extent to which encroachment was adversely affecting training readiness and costs."

Supplementing this absence of data suggesting an adverse impact on readiness are the statements of Administration officials. In Senate testimony earlier this year, Christine Whitman, administrator of the Environmental Protection Agency, said, "I don't believe that there is a training mission anywhere in the country that is being held up or not taking place because of environmental protection regulation." Further, the Deputy Secretary of Defense wrote in a March 3 memorandum "In the vast majority of cases, we have demonstrated that we are both able to comply with environmental requirements and to conduct necessary military training and testing."

Finally, if an adverse impact existed or arose, current law provides a number of exemptions that the Administration could exercise. Rather than support a substantial shift in environmental law, we call upon the Department to exercise its ability to use the existing exemptions in the rare cases in which those exemptions might

be needed. Apparently Deputy Secretary Wolfowitz agrees. He wrote "In those exceptional cases where we cannot [train] and the law permits us to do so, we owe it to our young men and women to request an appropriate exemption."

Instead of addressing those rare cases by supporting existing exemptions or proposing a surgical fix, the majority included far-reaching changes in environmental laws, whose application extends well beyond the Department of Defense and well beyond any determinable national security requirement.

The unfortunate and counterproductive result of exempting all Federal activity from these important protections will be to further exacerbate the threat to endangered species and marine mammals, curtail valuable public, State and local consultation, and in all likelihood increase litigation.

SUSAN A. DAVIS.
LANE EVANS.
NEIL ABERCROMBIE.
CIRO D. RODRIGUEZ.
LORETTA SANCHEZ.
ELLEN O. TAUSCHER.
JIM LANGEVIN.
TIM RYAN.
JOHN B. LARSON.